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In re application of
Shacklett et al.
Serial No. 09/349,737
Filed: July 8, 1999
For: FABRIC PADS WITH A PRINTED DESIGN
AND A METHOD OF MAKING FABRIC
PADS WITH A PRINTED DESIGN

DECISION ON
PETITION

This is a response to the PETITION TO RESCIND THE NOTICE OF APPEAL filed by the Applicant on April 4, 2003, and stay the fee submitted by Applicant in support thereof in the event a subsequent Notice of Appeal is filed. The Notice of Appeal filed on March 12, 2003 was filed in response to a second non-final Office Action dated September 12, 2002. Applicant further submitted an amendment on March 12, 2003 that was not entered by the Examiner. Subsequently another amendment was filed on May 20, 2003 that was not entered. The Examiner sent out an Advisory Action on July 23, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Advisory Action of July 23, 2003 and the Amendment of May 20, 2003 will be vacated. The Notice of Appeal will be rescinded and the Amendment filed March 12, 2003 will be entered and the application forwarded to the Examiner for consideration. Under 37 CFR 1.191(a), an applicant for a patent dissatisfied with the primary examiner's decision in the second or final rejection of his or her claims may appeal to the Board for review of the examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR 1.17(b) within the time period provided under 37 CFR 1.134 and 1.136. A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claim(s) has/have been finally rejected.

The fee filed for the Notice of Appeal will not be refunded since the filing of a Notice of Appeal after two actions in the application was proper.

The Petition is **GRANTED**.

J. Stone

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